

MARVIN HOLLIS, E-37508
High Desert State Prison
P.O. Box 3030, D-5-228
SUSANVILLE, CALIF, 96127
IN PRO-PER

FILED
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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARVIN HOLLIS,
Plaintiff
vs.
ELOY MEDINA,
Defendant

CASE NO. C-07-2980 TEH (PR)

MOTION FOR DEFAULT JUDGMENT
OR ALTERNATIVE ACTION.

Plaintiff move this court for a judgment by default in this action. Defendant has not filed no answer or other defense as ordered by the court on 11-27-07. Wherefore, plaintiff moves this court make and enter a judgment in favor of plaintiff or take alternative action to achieve the interest of justice and early resolution of the case. I also move for a copy of a status report.

Dated: 2-27-08

Murvin Glenn Hollis
-Plaintiff-

(MURPHY BROS. INC. V. MICHELLI PIPE STRINGING, INC.,
526 U.S. 344, 350 (1999))

*HAS SUMMONS BEEN SERVED IN THIS ACTION?

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



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January 31, 2008

Marvin G. Hollis
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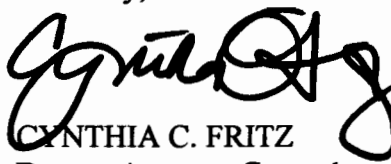
RE: **MARVIN G. HOLLIS v. ELOY MEDINA**
United States District Court, Northern District of California, Case No. C 07-2980 THE
(PR)

Dear Mr. Hollis:

The Attorney General's Office received your January 3, 2008 Request for Production of Documents and your January 6, 2008 First Set of Interrogatories. I am returning the discovery to you. The discovery requests are premature and procedurally improper because they fail to comply with the Federal Rules of Civil Procedure.

Defendant Medina is currently not a party to the action. You served the discovery requests before Medina has appeared in the action and before Medina has been personally served with a summons and complaint or waived service. Medina has no obligation to comply with the discovery requests because he has not appeared in the action. One becomes a party officially and is required to take action in that capacity only upon service of summons. *Murphy Bros. Inc. v. Michetti Pipe Stringing, Inc.* 526 U.S. 344, 350 (1999). Since you failed to serve the discovery requests in compliance with Rule 5 and also attempted to serve Defendant before he was a "party" within the meaning of the discovery rules, the requests are improper.

Sincerely,


CYNTHIA C. FRITZ
Deputy Attorney General

For **EDMUND G. BROWN JR.**
Attorney General